



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/812,955

03/31/2004

Scott Alan Noonan

52493.000374

4888

21967

7590

08/04/2006

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

EXAMINER

RAYMOND, EDWARD

ART UNIT

PAPER NUMBER

2857

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/812,955	Applicant(s) NOONAN ET AL.	
	Examiner Edward Raymond	Art Unit 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-21 and 24-35 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-5, 8-21 and 24-35** are rejected under 35 U.S.C. 102(b) as being anticipated by Tracey et al.

Tracey et al. teach a method of testing comprising: defining a process to be tested (Claims 1, 19 and 32: see Figure 15: Steps 1503 and 1504); identifying a plurality of risks associated with the process (Claims 1, 19 and 32: see paragraph 69); quantifying each of the risks with a risk value (Claims 1, 19 and 32: see paragraph 70); defining a test plan for the process, the test plan including a number of test cases (Claims 1, 19 and 32: see paragraph 76), wherein testing of the test cases is prioritized based on the risk value (Claims 1, 19 and 32: see paragraph 66, 69 and 70); and executing the test plan (Claims 1, 19 and 32: see paragraph 239).

Tracey et al. teach a method wherein the process is executed at least in part by an automated system (Claim 2: see paragraph 239).

Tracey et al. teach a method further comprising: identifying at least one failure of the process based on executing the test plan (Claim 3: see paragraph 70); and modifying the process based on the at least one failure (Claim 3: see paragraph 68).

Tracy et al. teach method wherein the step of quantifying each of the risks with a risk value comprises: assuring a value for (1) the likelihood of the failure occurring (Claim 4: see paragraph 68), (2) the severity of the effect of the failure on the process being tested (Claim 4: see paragraph 70), and (3) the likelihood that the failure would be detected before it impacted another part of the process (Claim 4: see paragraph 70); and multiplying the values together to calculate the risk value (Claims 4 and 20: see paragraph 69 and paragraph 124).

Tracy et al. teach a method wherein each of the test cases comprises a set of conditions (Claims 5 and 21: see paragraph 70).

Tracy et al. teach a method further comprising the step of categorizing the test cases based on a relative complexity of the test cases (Claims 8 and 24: see paragraph 64).

Tracy et al. teach a method further comprising identifying at least one core test case, the core test case comprising conditions that test basic functionality of the process (Claims 9 and 25: see paragraph 72).

Tracy et al. teach a method wherein the test cases are defined, in part by forming a matrix with test cases listed along a first axis and risks listed along a second axis (Claims 10 and 26: see Figure 5A).

Tracy et al. teach a method further comprising designing at least a portion of the test cases to each test a plurality of risks so as to reduce the number of test cases needed to test all of the risks (Claims 11 and 27: see paragraph 80).

Tracy et al. teach a method further comprising recording the definition of each test case to enable the testing of the test cases to be reproduced at a later time (Claims 12 and 28: see paragraph 87).

Tracy et al. teach a method further comprising: executing a first set of test cases on a first version of the process, the first set of test cases testing a basic functionality of the first version of the process; and thereafter simultaneously (a) executing a second set of test cases on the first version of the process, the second set of test cases testing additional functionality of the process, and (b) executing a first set of test cases on a second version of the process, the first set of test cases testing a basic functionality of the second version of the process (Claims 13 and 29: see paragraph 72).

Tracy et al. teach a method further comprising recording errors in the process in a standardized format (Claims 14 and 30: see paragraphs 66 and 87).

Tracy et al. teach a method further comprising correcting the errors in an order based on a severity level of the errors (Claims 15 and 31: see 70).

Tracy et al. teach a method wherein the step of executing the test plan comprises: simultaneously testing a predetermined number of test cases on a model system to assess a capacity of the model system; and estimating a capacity of a production system to handle a number of test cases based on the number of test cases tested in the model system and the relative capacity of the production system with respect to the model system (Claim 16: see Figures 3 and 4).

Tracy et al. teach a method further comprising simultaneously testing a single sub-process comprising a portion of process with a plurality of test cases (Claim 17: see paragraph 66).

Tracy et al. teach a method further comprising flow testing a plurality of test cases through the entire process (Claim 18: see paragraph 67).

Tracy et al. teach an article further comprising computer readable program code means for causing the computer to generate a report identifying a pass/fail status for each test case (Claim 33: see paragraph 191).

Tracy et al. teach an article further comprising computer readable program code means for causing the computer to receive and store data identifying errors in the process or the system (Claim 34: see paragraph 87).

Tracy et al. teach an article further comprising computer readable program code means for causing the computer to generate a report identifying a status of the errors (Claim 35: see paragraph 191).

Allowable Subject Matter

3. **Claims 6, 7, 22 and 23** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

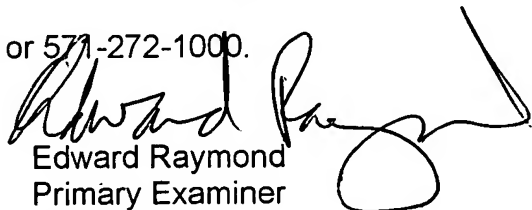
Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Raymond whose telephone number is 571-272-2221. The examiner can normally be reached on M-F 8:30-5PM.

Art Unit: 2857

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Edward Raymond
Primary Examiner
Art Unit 2857

er